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DECISION

21293
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D. C. 20548

FILE: B-205221

DATE: March 24, 1982

MATTER OF: Aamtech International Factors Corporation

DIGEST:

Contracting agency incorrectly determined that low bids were not signed by authorized agent where bids were signed by an individual as authorized representative, business cards showed that signer of bid was president and managing director of a corporation, and bidder authorized the corporation as agent.

Aamtech International Factors Corporation (Aamtech) protests the award of contracts for bar steel to any firm other than Commonwealth Steel Company Limited (Commonwealth), the apparent low bidder, under invitation for bids Nos. DAAA08-81-B-0174, -0182, -0201, -0202, and -0207, issued by the United States Army, Rock Island Arsenal, Illinois. The Army determined that Commonwealth's bids were nonresponsive, based on a finding that the bids were not signed by an authorized representative. We sustain the protest.

The bids submitted by Commonwealth were signed "G. F. Argetsinger, Authorized Representative." A business card was attached to each bid, bearing the inscription, "Aamtech International Factors Corporation, G. F. Argetsinger, President & Managing Director." Because the contracting officer was not familiar with Commonwealth and the firm had not previously filed an authorized agents form, the contracting officer called Mr. Argetsinger and requested that evidence of his relationship as agent for Commonwealth be forwarded. In response, Mr. Argetsinger wrote the contracting officer a letter on Aamtech stationery (as "Authorized Representative, Commonwealth Steel Company, Ltd") enclosing a letter on Commonwealth stationery which said the following:

"TO WHOM IT MAY CONCERN

"We advise that Aamtech International Factors Corporation of United States of America is authorized to receive tender documents, present our offers, and transmit prices in our name for the selling of this Company's products within the United States of America. For: Commonwealth Steel Company Limited. [signature], Manager Corporate Finance and Company Secretary."

The contracting officer then, having received no bid from Aamtech on behalf of Commonwealth, decided that the signature of Mr. Argetsinger was not authorized by Commonwealth. Therefore, the awards were made to other bidders.

Aamtech contends that it holds written authorization to submit bids for Commonwealth. As Commonwealth's North American representative, "we did duly and timely submit bids in accordance with our authorization and as instructed by our principal." Furthermore, Mr. Argetsinger, the president of Aamtech, states that "I have [previously] signed bids exactly as I signed those in question, and have been awarded contracts by DOD."

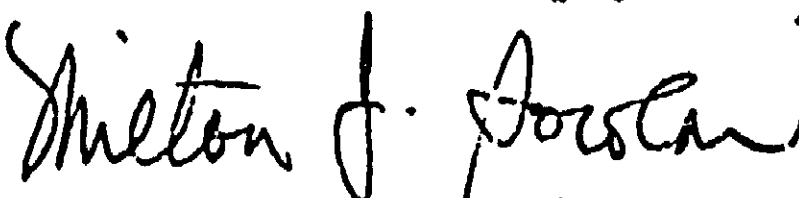
The agency basically contends that only a bid signed by Aamtech for Commonwealth would be acceptable and that no agency relationship has been established for Mr. Argetsinger.

The burden rests on the bidder to establish the authority of the signer of the bid. Aul Instruments, Inc., B-199416.2, January 19, 1981, 81-1 CPD 31; Forest Scientific, Inc., B-192827, B-192796, B-193062, February 9, 1979, 79-1 CPD 188. The question of a signer's authority to bind a bidder is essentially a factual determination to be made by the contracting officer upon consideration of all relevant evidence. Jordan Contracting Company and Griffin Construction Company, Inc., B-186836, September 16, 1976, 76-2 CPD 250; Atlantic Maintenance Company, 54 Comp. Gen. 686, 692 (1975), 75-1 CPD 108. Where a bidder fails to present sufficient evidence to prove to the contracting officer's satisfaction the authority of an alleged signer/agent to bind the firm, the agency may properly reject

the bid. See Forest Scientific, Inc., supra. Evidence is not necessarily limited to documents, and authority may be inferred from the position held by the signer or by knowledge obtained by other means. Self-Powered Lighting, Ltd., 59 Comp. Gen. 298 (1980), 80-1 CPD 195.

We conclude that the contracting agency incorrectly determined that Commonwealth's bids were nonresponsive. First, the agency does not question Mr. Argetsinger's authority to bind Aamtech, as its president and managing director. Second, the attachment of the business cards to the bids showing Mr. Argetsinger's position with Aamtech Corporation, despite the lack of comment or explanation, demonstrates the involvement of Aamtech. Third, the Commonwealth authorization appointed Aamtech, a corporation, as its authorized agent, and a corporation is bound by the signature of authorized officers. Finally, the submission by Mr. Argetsinger of the Commonwealth authorization, which indicated the actual relationships involved, occurred prior to any awards being made.

Despite our conclusion, no corrective action is practical since the five contracts (three contractors) have been either performed or substantially performed.

for 
Comptroller General
of the United States